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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-954]

Certain Magnesia Carbon Bricks from the People's Republic of China: Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to requests from interested parties, the Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on certain magnesia carbon bricks from the People's Republic of China ("PRC"), covering the period of review ("POR") of March 12, 2010, through August 31, 2011. The Department has preliminarily applied adverse facts available (AFA) to the two mandatory respondents who both failed to cooperate to the best of their ability in this proceeding. The Department also intends to rescind the review of seven companies that certified that they had no shipments of subject merchandise to the United States during the POR.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-4047.

Scope of the Order

The merchandise subject to the order includes certain magnesia carbon bricks. Certain magnesia carbon bricks that are the subject of this order are currently classifiable under subheadings 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in

Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Antidumping Duty Orders, 75 FR 57257 (September 20, 2010), remains dispositive.

Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that ANH (Xinyi) Refractories (“ANH”), Yingkou New Century Refractories Ltd. (“Yingkou New Century”), and RHI-Refractories Asia Pacific Pte. Ltd., RHI Refractories (Dalian) Co., Ltd., RHI Refractories Liaoning Co., Ltd., RHI Trading Shanghai Branch, and RHI Trading (Dalian) Co., Ltd. (collectively, “RHI”) made no shipments of subject merchandise during the POR of this administrative review. The Department received no-shipment certifications from ANH, Yingkou New Century, and RHI between November and December, 2011. The Department also issued no-shipment inquiries to U.S. Customs and Border Protection (“CBP”) in January 2012, asking CBP to provide any information contrary to our findings of no entries of subject merchandise for merchandise manufactured and shipped by ANH, Yingkou New Century, and RHI during the POR. We did not receive any response from CBP, thus indicating that there were no entries of subject merchandise into the United States exported by these companies. Consequently, as none of the companies made exports of subject merchandise during the POR, we are preliminarily rescinding the review, in part, with respect to ANH, Yingkou New Century and RHI.

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (“the Act”). We have relied on facts available and because respondents did not act to the best of their ability to respond to the Department’s requests for

information, we have drawn an adverse inference in selecting from among the facts otherwise available.¹

For a full description of the methodology underlying our conclusions, please see “Decision Memorandum for Preliminary Results for the Antidumping Duty Administrative Review of Certain Magnesia Carbon Bricks from the People’s Republic of China,” (“Preliminary Decision Memorandum”) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”), room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review:

The Department has determined that the following preliminary dumping margins exist for the period March 12, 2010, and August 31, 2011:

<u>Company</u>	<u>Margin (percent)</u>
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City	236.00
PRC-wide entity (including Yingkou Byuquan Refractories Co., Ltd.)	236.00

¹ See sections 776(a) and (b) of the Act.

Disclosure and Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.² Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.³ Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.⁴ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.⁵ Parties should confirm by telephone the date, time, and location of the hearing.

² See 19 CFR 351.224(b).

³ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

⁴ See 19 CFR 351.310(c).

⁵ See 19 CFR 351.310.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of these preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record.⁶ Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

⁶ See, e.g., *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis*, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).⁷ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Fengchi Imp. and Exp. Co., Ltd. of Haicheng City and Yingkou Bayuquan Refractories Co., Ltd. will be the rate established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in this administrative review, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of this proceeding; (3) for

⁷ In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

all other PRC exporters, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 236.00 percent); and (4) the cash-deposit rate for any non-PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Paul Piquado
Assistant Secretary
for Import Administration

October 1, 2012 _____
Date

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of Merchandise
3. Non-Market Economy Country Status
4. Separate Rates
5. PRC-Wide Entity
6. Fengchi
7. Use of Facts Available and Adverse Facts Available (AFA)
8. Application of Total AFA to Fengchi
9. Application of Total AFA to the PRC-Wide Entity
10. Selection of AFA Rate
11. Corroboration of Secondary Information
12. Export Subsidy Adjustment

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